

DELTA PROTECTION COMMISSION

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DRAFT MINUTES

DELTA PROTECTION COMMISSION MEETING
Thursday, January 22, 1998

1. Call to Order/Attendance.

Members Present: Barber, Cabaldon, Canciamilla, Curry, Harris, Mello, Potter (arrived 6:40 p.m.), Rhodes, Salmon, Sanders, and Yates. Members absent: Broddrick, Calone, Ferreira, Chairman McCarty, McGowan, Nottoli, and Thomson. There was a quorum.

2. Public Comments.

There were no public comments.

3. Minutes of the September 25, 1997 Meeting.

On a motion by Commissioner Harris and a second by Commissioner Curry, the September minutes were approved; Commissioner Barber abstained.

4. Minutes of November 20, 1997 Meeting.

On a motion by Commission Yates and a second by Commissioner Sanders, the November minutes were approved; Commissioners Barber and Mello abstained.

5. Chairman's Report.

Acting Chair Mello reported changes on the Commission: Supervisor George Barber of San Joaquin County has returned to the Commission, replacing Supervisor Simas; and Donald Murphy has left the Department of Parks and Recreation and a new Commissioner will be seated at the next meeting, Ron Brean, District Superintendent of the Gold Rush District. Resolutions of Appreciation for Supervisor Simas and for Director Murphy were approved by unanimous voice vote on a motion by Commissioner Harris and a second by Commissioner Yates.

Acting Chair Mello noted the next Commission meeting is scheduled for March 26, 1998 at 6:30 p.m. in the Jean Harvie Community Center. Tentatively agendized for that meeting is consideration of comments on the Draft Environmental document for the CALFED program, including the common elements--the Ecosystem Restoration program plan and the levee maintenance program, and

the three alternatives for water transportation to the pumps. There will also be review of a submittal from Sacramento County regarding conformance with the amendment of P-3 in the Land Use Plan.

Acting Chair Mello asked Commissioners to review the list of Subcommittees and to join any of them.

He announced an upcoming event: California Duck Days in Davis February 6-8, 1998, featuring the Yolo Bypass Wetland Area.

6. Attorney General's Report.

Dan Siegel, Attorney General's Office, gave an update on the case Akins vs. State of California, in which the Commission has filed an amicus brief. The case had been held in abeyance until resolution of the Bunch case. The oral arguments in the Akins case were made two days ago, in support of the "reasonableness" issue.

7. Executive Director's Report.

Margit Aramburu reviewed the material in the mailing packet including: a memo re classification of *Egeria densa* as a Class A weed, and a summary of a Report on Exotic (Nonindigenous) Species in the Bay and Delta. She noted that several bond actions are under consideration by the Legislature including: SB 312 Flood Protection Bond Act of 1998/Machado and Costa which would provide funds to continue the existing levee maintenance program, and funds for the Agricultural Land Stewardship Program, conservation easement program, managed by Department of Conservation; and a Bond Act proposed by the Governor which has not yet been "fleshed out", but was described in a press release.

Ms Aramburu noted she had recently met with staff of the Cosumnes Preserve and Ducks Unlimited to find out about their current programs and to encourage Ducks Unlimited to get re-involved in the agriculture/wildlife joint management programs that are supported in the Commission's land use plan, the Central Valley Habitat Joint Venture, and in the CALFED Draft Ecosystem Restoration Plan.

Ms Aramburu noted that Walter Kornichuk has finished eight months with the Commission and will be leaving to attend graduate school in San Francisco. She thanked him for his assistance, particularly in attending CALFED meetings on behalf of the Commission.

She reported that the Recreation Inventory and a summary of the Recreation User Survey have been sent to Teale to add to the Commission's home page, and that the final recreation inventory is being printed and will be distributed to the Commission.

Ms Aramburu said East Bay Regional Park District staff is still working on proposed agreements to allow continuing use by the floating blind owners.

She also reminded the Commissioners to turn FPPC forms in to the Commission's office as soon as possible; they are due on the first of April.

Acting Chair Mello asked how long the levee maintenance program would be funded under SB 312; Ms Aramburu said there are no dollar amounts in the bond act at this time.

8. Pending Projects Memo.

There were no questions or comments.

9. Briefing on Protocol to Close Delta Waterways and Other Department of Boating and Waterway Issues.

Acting Chair Mello welcomed Chuck Raysbrook, Director of the Department of Boating and Waterways, for a briefing on Department of Boating and Waterways issues, including protocol for closing the Delta waterways in times of extremely high water which was prepared by Office of Emergency Services. He noted the Commission received a copy of the protocol prepared earlier this year by Office of Emergency Services and a copy of the letter from the Attorney General's office stating that Boating and Waterways has authority to close the Delta waters under existing State law.

Director Raysbrook announced that the Department of Waterways is doing well in regards to its budget for FY 98-99. A budget augmentation has been approved for the water hyacinth and Egeria densa removal programs.

He described recently passed bills, including the Abandoned Vessels Clean-Up legislation (SB 172, Rainey) which will provide about one million dollars a year to clean up abandoned vessels. He suggested that the current funding level is inadequate. The new program will start in FY 98, and a program is currently being developed. He noted that the program is available only for removal of recreational vessels. To receive a grant, the local

government must have a removal program, including an inventory and a program to prevent new abandoned vessels. He noted there is a ten percent match requirement, and the grantee is responsible for any permits or other administrative or regulatory actions. The program will prioritize vessels which present navigation or pollution hazards. He thanked the Commission for support for the legislation and the program.

Director Raysbrook described the Delta waterways emergency closure program. The question was raised in the 1997 floods if the Department has authority to issue cautionary notice, or close Delta waterways. The Attorney General's office has responded to a formal inquiry as the Department's authority in this area. Protocol was developed by Office of Emergency Services before the AG's opinion was released. Department of Boating and Waterways will likely follow the protocol developed in coordination with Coast Guard, Department of Water Resources, and County Sheriffs. Department of Water Resources will make announcements on behalf of County Sheriffs regarding requested closures in new regulations being submitted to Office of Administrative Law. He noted that they will be adding information about violations and enforcement of the regulations.

Commissioner Harris asked in the past, who had the authority to close the waterways; Director Raysbrook said the Highway Patrol and the Coast Guard. He said the Coast Guard's primary concern is commercial traffic. Commissioner Harris said there had been a problem of lack of communication between federal, State, and local governments. Director Raysbrook said OES will be the coordinator under the new protocol.

Commissioner Curry said the Sacramento County Sheriffs have the authority to close the waterways, and added that this is a Statewide issue, rather than just a Delta issue.

Commissioner Cabaldon asked about the ability of City policing agencies to apply for grants and to be included in the waterways request for closure and notification process. He asked that other affected local governments be consulted when a request for closure is submitted. Director Raysbrook said those were good points and should be amended to address those points.

Commissioner Potter noted that the Commission had spent a lot of time on both of the issues discussed in the briefing, and supported the upcoming work of the Department. He commented that because there appears to be a relationship between boat wakes and

levee erosion, the Department of Water Resources will continue to pursue funds from the Boating and Waterways fund for levee maintenance. He said the boaters had blocked requests in the past.

Seth Cockrell, Marina and Recreation Association, said he had come to the Commission in support of the vessel removal program and the Delta waterways closure program. He commented that the Boating and Waterways posters re: closure/caution had come too late to be relevant. He said marina operators are in a good position to help enforce that type of warning, as well as the closures. He commented that a closure system tied to tide elevations would be helpful. Acting Chair Mello suggested tying closure to water surface elevation, including flood flows, not just tides. Director Raysbrook said that issue would be reviewed.

Commissioner Curry recounted the efforts of the Department of Boating and Waterways to warn boaters of dangers during high waters. He noted the public service announcements had been repeated after the flood danger had passed. More control is needed for the announcements.

10. Briefing on Submittal from San Joaquin County Regarding Conformance with Amendment to the Land Use and Resource Management Plan for the Primary Zone of the Delta.

11. Briefing on Submittal from City of Rio Vista Regarding Conformance with Amendment to the Land Use and Resource Management Plan for the Primary Zone of the Delta.

Ms Aramburu noted that these two agenda items are similar to other submittals reviewed by the Commission last year. After the Commission amended the Plan to include Utilities and Infrastructure Policy P-3 as a regulation, all the local governments were contacted and asked to indicate what amendments were needed to bring their general plans into conformance with the Commission amended Plan. Both San Joaquin County and the City of Rio Vista have indicated that no amendments are needed. If the Commission agrees, no action is required, and staff will send a letter of concurrence to the local governments. If the Commission believes this matter needs further consideration, a public hearing should be set for the next Commission meeting.

Commissioner Salmon asked why Union Island was omitted from the description of San Joaquin County; Ms Aramburu said it was a typographical error.

Commissioner Harris announced that the City of Rio Vista is starting a two year general plan update. He noted that biosolids from the City's treatment plant may be processed for commercial distribution to benefit the Future Farmers Association. Acting Chair Mello and Commissioner Yates suggested contacting the Department of Food and Agriculture regarding labeling requirements for fertilizer.

There were no further comments or questions.

12. Update on CALFED Program.

Ms Aramburu reviewed the material distributed at the meeting including: a letter to CALFED staff clarifying the acreages in the Draft ERPP--they included a 20,000 to 30,000 acre area of managed wetland enhancement by mistake, so the corrected total for acreage proposed for restoration in the Delta are 96,600 to 112,600 acres; the press release about the Governor's proposed Water Bond Act; the 1997 Category III grants--a list, a map, and one-page descriptions of the funded projects--Category III are "non-flow" projects intended to improve habitat in the Delta and Delta watershed; maps of the current version of the three conveyance alternatives to be analyzed in detail in the Environmental Document; and a copy of the questions and comments from the public meeting held in Walnut Grove in November, as prepared by CALFED staff. The environmental document is to be released at the end of February with a 60 day review period.

Commissioner Salmon asked about the total numbers proposed for restoration. He said the CALFED staff inferred that the Delta Protection Commission is in support of the entire CALFED program and they told the South Delta Water Agency that many fewer acres would be retired from agriculture. He is concerned that only Alternative Three is being pursued by CALFED.

Acting Chair Mello asked if they were talking only about the South Delta Ecological Zone; Commissioner Salmon said no, the entire Delta. Acting Chair Mello said there continues to be conflicting information about elements of the program including restoration and setback levees. Ms Aramburu said she would be glad to attend any future meetings and she offered to write a letter asking for clarification of the proposed restoration figures. Acting Chair Mello asked Ms Aramburu to write such a letter.

Commissioner Potter said the Policy Committee would be meeting on Monday and Tuesday to make decisions about the environmental document. He also said two documents would be released: the full environmental document and a Phase II Report, which will highlight issues and policies.

Ms Aramburu noted staff has attended CALFED meetings including: two Water Transfers meetings; Assurances group; two Ecosystem Roundtable; Ecosystem Restoration; BDAC Meeting; two Delta Levees and Channels meetings; and a Delta Levees and Channels Assurances meeting.

13. Consideration of 1997 Annual Report.

Acting Chair Mello noted the Commission is required to submit an annual report to the Governor and the Legislature regarding the Commission's actions in the last year and the performance of the adopted regional land use and resource management plan.

Ms Aramburu reviewed the draft annual report and noted there were no appeals; that there were very few local government actions in the Primary Zone; and that there were only a few acquisitions by government agencies and those were within areas already slated for acquisition, such as Stone Lakes Wildlife Refuge and Sherman Island. She noted Dan Siegel had submitted some suggested edits to the legal section, and noted that Commissioner Curry should be added to the CALFED Subcommittee.

Commissioner Potter suggested the following changes to the cover letter and the report: delete reference to Yolo Bypass Wetland Projects as the largest restoration project west of the Rockies; add information about the acreage irrigated with water exported from the Delta; and add reference to the total amount of money designated by the Legislature for the levee maintenance program since 1986 and the Legislative efforts to improve the levee maintenance program.

On a motion by Commissioner Cabaldon, and a second by Acting Chair Mello, the draft letter and report as amended, was adopted by voice vote.

14. Consideration of Future of the Delta Protection Commission.

Ms Aramburu noted that several Commissioner who were unable to attend had sent letters; they were distributed.

Acting Chair Mello said the Commission was originally given four years to prepare the land use and resource management plan and work with the Counties to have the Plan reflected in the local government general plans. Those tasks took longer than expected and the Commission was extended for two additional years to allow completion of those tasks. The Commission is slated to sunset on January 1, 1999, one year from now. He said this agenda item was agendized to allow discussion of the future of the Commission. Staff prepared a brief memo which outlines some of the obvious alternatives:

The Commission can be allowed to sunset in one year; some entity must be designated to take over for the Commission.

The Commission could be extended for a set period of time with no change in duties.

The Commission could be made permanent with no change in duties.

The Commission could be extended or made permanent with change in duties... we should discuss any ideas along that line tonight.

He said the Commission should attempt to come to some general conclusions tonight so the Commission can seek help with bill language to address the issue this Legislative session; the deadline for introduction of new bills is February 20.

Jerry Robinson, representing South Delta Water Agency, said that group would also like the Commission extended for some period of time. He said there are concerns that nearby urbanizing areas are continuing to seek sites for disposal of sewage sludge, and continue to put pressure on the South Delta portion of the Primary Zone.

Acting Chair Mello started the Commission discussion by reporting on the position of the North Delta Water Agency. That group met to discuss this issue; the represented districts were unanimous in supporting the Commission's extension, and suggested a ten year extension, with the Commission continuing to review its own work, and a review by the Legislature in ten years. That group is very interested in having the Commission be a liaison with CALFED.

Commissioner Salmon noted that the South Delta Water Agency members agree that the Commission plays an important role in working with CALFED, as well as its on-going roles.

Commissioner Harris said he represents ABAG, through the mayors of Solano County. He agrees that the Commission should be extended, with ten years a good length of time, and said he will inform ABAG and the mayors that he has taken that position.

Commissioner Potter said the Senate and Legislature held a recent joint hearing, and at that meeting Senator Johnston reminded Lester Snow that CALFED should be working with the Commission.

Acting Chair Mello said the extension will be up to the Legislature, and noted that the Commission's charge should be modified to reflect that role.

Commissioner Curry said the Commission has helped enhance communication between "the farmers and the boaters"; he said the Department of Boating and Waterways will likely support continuation of the Commission at least until its on-going study of boat wake erosion impacts on Delta levees is completed.

Commissioner Cabaldon said he represents the North Delta cities--West Sacramento, Sacramento, and Isleton, and said the issues are not as pressing to West Sacramento since it is outside the Primary Zone. He said there is, however, support for extending the Commission in all three of those cities. He said the Commission should reflect on its original mission--land use--and see if that primary mission is no longer primary, and then if the make-up of the Commission is still appropriate. He said the Legislature will want to know what role the Commission has been and will be playing.

Commissioner Potter suggested consideration of a smaller group meeting on an as-needed basis, as one alternative.

Acting Chair Mello said that would mean eliminating certain seats and suggested that there is value in the current format because it allows communication between all the key interests.

Commissioner Harris asked how many groups are involved in protecting the Delta. He suggested getting all the groups that protect the Delta together to make sure they are all working together.

Commissioner Yates said the Commission's original charge is to promote and protect agriculture, environmental resources and recreational resources. He said there will be ever increasing pressures on the agricultural lands of the State in the next ten to twenty years. He said to protect the Delta's resources, it

will take all the interested parties. He said there is plenty of work to be done.

Commissioner Cabaldon suggested taking a vote on the extension of the Commission tonight, and discussing other issues at the March meeting.

Commissioner Potter suggested a smaller Subcommittee to outline one or more alternatives. He suggested that the discussion could be led by the local representatives, as opposed to the State.

Acting Chair Mello suggested that the reclamation districts and county representatives should attend.

Ms Aramburu noted that the City representatives are also local representatives. She suggested having the Subcommittee meeting in the fourth week in February. She asked if evening or day would be better.

Acting Chair Mello suggested contacting staff with additional ideas.

Ms Aramburu said the notice would go to the entire mailing list, and said she would send the packet to all the Commissioners.

Commissioner Curry said there is strong agricultural support, and the Commissioners must address the recreational charge as well. He said he is concerned that some Commissioners have poor attendance, and said that should be addressed.

Commissioner Cabaldon said it is difficult for the elected officials to attend and said the Commission must be important to and of relevance to the local government elected officials to make sure they attend.

Commissioner Cabaldon moved that the Commission seek support of the Legislature for a time extension for the Commission, with a motion by Commissioner Salmon. Commissioner Rhodes asked if a time frame is included. Acting Chair Mello moved to amend the motion to include a ten year extension with two year reviews by the Commission, seconded by Commissioner Rhodes. The amendment was accepted by the maker and seconder of the motion. The motion was approved unanimously by voice vote.

Acting Chair Mello directed staff to communicate the outcome of the vote to the Legislature and to set up a subcommittee meeting in February.

Commissioner Potter said the ten year time frame seems appropriate, particularly since the CALFED process may be negotiated for ten years. He suggested that the Chair, staff, or both communicate with Lester Snow and ask for support from CALFED. Acting Chair Mello said he had mentioned his ideas to Dick Daniel of the CALFED staff.

15. Commissioner Comments/Announcements.

Acting Chair Mello thanked Walter Kornichuk for his assistance to the Commission, and wished him luck in his future endeavors.

Commissioner Curry noted that the Resolution to Donald Murphy should be corrected to properly reflect his term on the Commission.

16. Adjournment.

The meeting was adjourned at 8:25.